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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,322	06/07/2001	Ward Beryl Bowen JR.	87312.000003	8426
23387	7590	10/18/2004	EXAMINER	
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			PAK, JOHN D	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Response to Rule 312 Communication	Application No.	Applicant(s)	
	09/876,322	BOWEN ET AL.	
	Examiner	Art Unit	
	JOHN PAK	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 23 September 2004 under 37 CFR 1.312 has been considered, and has been:

- a) ☐ entered.
- b) ☐ entered as directed to matters of form not affecting the scope of the invention.
- c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.
- d) ☒ disapproved. See explanation below.
- e) ☐ entered in part. See explanation below.

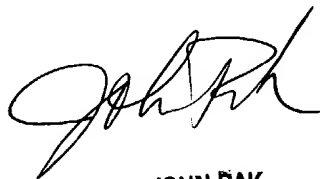
1) Applicant seeks to reinsert claims 2-4, 9, 10, 15, 17, 19 and 22. However, these claims were indicated as "Cancelled" by applicant in applicant's amendment of 7/6/2004. This application was allowed based on the claims as they were presented on 7/6/2004 and amended by Examiner's amendment. Given the large number of claims involved and the broad subject matter under review, reintroduction of nine claims at this time, post-allowance, is deemed most untimely.

2) Said claims 2-4, 9, 10, 15, 17, 19 and 22 were already cancelled by applicant. They cannot be revived by reintroducing them with their old (cancelled) claim numbers. This is clearly improper.

3) Claims 37-41 and 78-109 are not withdrawn, as applicant indicates. Withdrawn claims are still pending but not yet examined. Claims 37-41 and 78-109 were cancelled by applicant in the amendment of 7/6/2004. So these claims were cancelled, not withdrawn. Improper designation such as "withdrawn" instead of "Cancelled," in addition to (2) above, render applicant's 312 amendment not in compliance with the Revised Amendment Practice under 37 CFR 1.121.

4) Similarly, claim 28 is amended in applicant's 312 amendment but designated as "Previously Presented." Again, this is not in compliance with 37 CFR 1.121. Furthermore, the amendatory language of claim 28 is confusing and indefinite.

For all of these reasons, the 312 amendment is disapproved and will not be entered.



**JOHN PAK
PRIMARY EXAMINER
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